



STATE OF DELAWARE

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October 17, 2018

MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Connie S. McDowell, Sr. Regulatory Policy Administrator

SUBJECT: In the Matter of the Application of SUEZ Water Delaware Inc. For Approval Pursuant to 26 Del. C. §215 Pertaining to an Indirect Change in Control of the Subsidiaries of SUEZ Water Inc. and SUEZ Water Resources Inc. (Filed October 4, 2018) - P.S.C. Docket No. 18-1118

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APPLICATION

On October 4, 2018 SUEZ Water Inc. ("SUEZ Water"), SUEZ Water Resources Inc. ("SWR"), SUEZ Water Delaware Inc. ("SWDE"), and Stichting Depositary PGGM Infrastructure Funds ("PGGM") (collectively, the "Applicants") filed an application (the "Application") pursuant to 26 Del. C. §215 seeking: (1) approval of the Delaware Public Service Commission ("Commission") of an indirect change in control of SWDE; or (2) in the alternative, requesting a determination by the Commission that the Transaction (as defined below) does not constitute a transfer of control pursuant to the provisions of 26 Del. C. §215(b); or (3) in the alternative, a determination by the Commission that pursuant to

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the provisions of 26 Del. C. §215(f), Commission approval of the Transaction is not required.

SUEZ Water will effectuate an indirect change of control of SWDE by forming a new direct subsidiary, NewCo, and contributing all of SUEZ Water's interest in SWR, and its subsidiaries, to NewCo. As a result of this transaction, SWR will become a wholly-owned, direct subsidiary of NewCo, and SWDE will become a wholly-owned, indirect subsidiary of NewCo. SWR will then be converted from a Delaware "C" corporation to a Delaware limited liability company. In addition, NewCo will issue and sell a 20% minority interest in NewCo to PGGM (together, these steps are the "Transaction"). The Transaction will be transparent from a customer perspective in that current rates, policies and personnel will not change as a result of the Transaction.

PGGM

PGGM, the company acquiring the 20% minority interest in NewCo, is part of the PGGM NV group (the "PGGM Group"), a cooperative Dutch pension fund service provider that manages pension funds and assets, and invests in public and private equity, debt, real estate funds, and infrastructure markets across the globe. Institutional clients are offered asset management, pension fund management, policy advice and management support services. As of June 30, 2018, PGGM Group had approximately \$250 billion in assets under management and was administering the pensions of 4.2 million participants. Around 750,000 workers in the Dutch healthcare system are connected to PGGM&CO, PGGM Group's member organizations. Either alone, or together

with strategic partners, PGGM Group develops future solutions by linking together pension, care, housing and work.

Description of the Proposed Transaction

After all the regulatory approvals are obtained and NewCo is formed, NewCo will be inserted into the ownership structure of the regulated companies owned by SWR, including SWDE, by placing NewCo in between SWR and SUEZ Water (SWR's current immediate parent company). NewCo will become the direct corporate parent of SWR, following SUEZ Water's contribution of 100% of its ownership interest in SWR to NewCo. As a result, NewCo will directly own 100% of SWR. In addition, SWR will be converted from a Delaware "C" corporation to a Delaware limited liability company ("LLC") and will be a "disregarded entity<sup>1</sup>" for United States federal income tax purposes, the result of which should be the avoidance of any adverse federal income tax consequences. Upon completion of this internal reorganization, NewCo will issue and sell to PGGM shares in NewCo representing 20% of NewCo's share capital pursuant to the terms of an Investment Agreement. At the conclusion of the Transaction, NewCo will be the direct corporate parent of SWR and the indirect corporate parent of SWDE. In addition, NewCo will be owned eighty percent (80%) by SUEZ Water and twenty percent (20%) by PGGM.

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<sup>1</sup>A disregarded entity refers to a business entity with one owner that is not recognized for tax purposes as an entity separate from its owner. A single-member LLC, for example, is considered to be a disregarded entity.

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Upon completion of the Transaction, SWDE will continue to operate as a Delaware public utility subject to the continuing jurisdiction of the Commission and without any reduction in the Commission's existing oversight or regulatory authority over SWDE. In addition, the Applicants confirm their ongoing commitment to comply with all applicable Delaware requirements.

Although the Transaction involves the transfer of a twenty percent (20%) interest in the voting securities of NewCo, the indirect corporate parent of SWDE, to PGGM, that interest does not confer control in SWDE to PGGM due to the safeguards included in the terms and conditions of the proposed Transaction. The Transaction also proposes that PGGM will hold one seat on the Board of Directors of NewCo out of total of five seats.

Proposed Transaction is in Accordance with Law, For a Proper Purpose and is Consistent with the Public Interest

The Applicants have stated that the proposed Transaction will provide an increase in the committed level of available financial resources to fund utility infrastructure investments and will provide SWR with a new shareholder also supporting continued investments in the utility's infrastructure that will benefit ratepayers. The Applicants have also stated that the proposed Transaction will provide additional financial resources that will be used to increase capital investment in the SWR utilities, including SWDE, and that increased capital spending will improve system reliability and create jobs in the State of Delaware.

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It appears that this Transaction will be transparent to SWDE customers since there will be no name change, no change in customer services and no changes to water quality programs.

Staff Review and Recommendation

Staff has reviewed the Application pursuant to 26 Del C. § 215(b), (c) and (d). 26 Del C. §215 (d) states that this Application must be in accordance with law, for a proper purpose and consistent with the public interest.

It is Staff's opinion that this Application meets the requirements of 26 Del C. § 215(b), (c) and (d). In addition, Staff finds that the Transaction is in accordance with law, for a proper purpose and consistent with the public interest, and, therefore recommends that it be approved. However, nothing in this recommendation should be construed as a recommendation for future rate-making treatment. The Commission should be provided a final report by the Applicants when the Transaction has been approved by all regulatory entities and has been completed.